IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO.103 OF 2004

Anita Kiran Vidhate .. Applicant.
V/s.
Kiran Mallakarjun Vidhate .. Respondent.

Mr.Ashok G. Toraksar for the Applicant.

CORAM : A.S. OKA, J.
DATED : 5TH APRIL, 2005.

P.C. :

1. On March 22, 2005 the Respondent appeared in person and sought time till March 29, 2005. On March 29, 2005 none appeared for the Respondent. On that day I heard the learned Advocate for the Applicant and placed the application today for orders. Today, none appears for the Respondent when the matter is called out. My attention has been invited to the affidavit of service filed by the Advocate for Applicant. It is pointed out in the affidavit that on February 15, 2005 Mr.Sunil Naik, Advocate appeared for the Respondent. However, on subsequent dates he did not appear and failed to file vakalatnama. It is stated in the affidavit that apart from service of notice to the Respondent by R.P.A.D. as well as by Speed Post A/D., the Advocate for the Applicant contacted the Advocate Mr.Naik on his Cell Phone and informed him the next date fixed for hearing.

2. The Applicant is wife and Respondent is husband. The Applicant-Wife has filed application

for maintenance under Section 125 of the Code of Criminal Procedure, 1973 against the Respondent. It is pending in the Family Court at Mumbai. The Respondent has filed petition for divorce against the Applicant which is pending in the Family Court at Pune. The transfer is mainly sought on following two grounds.

> "(i) That both the Applicant and the Respondent find inconvenience and hardship to attend the litigation pending before the Family Court, Pune where the Respondent-husband has filed Petition No.A-495 of 2004 for dissolution of marriage and Applicant-wife has filed the Application for maintenance against the husband u/s.125 of Cri.P.C. at Family Court, Mumbai at Bandra.
>
> (ii) That the Applicant-wife stays at Mumbai with her parents and parents are old aged and nobody is there in the family to go with the Applicant to attend the Petition at Family Court, Pune.

3. There is no contest to the averments made in the application. There cannot be any dispute that the petitions filed by the Applicant and the Respondent will have to be heard by one and the same Court so that the parties are not required to attend two different proceedings in two different Courts. Hence, a case for transfer is made out.

4. The application is allowed in terms of prayer clause (b). There will be no order as to costs.

5. Parties and the concerned Courts to act on authenticated copy of this order.

(A.S. OKA, J.)